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## GIFT AND INHERITANCE TAXES (Proponent Miller).

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# Gift and Inheritance Taxes (Proponent Miller)— Initiative Statute

Official Title and Summary Prepared by the Attorney General

**GIFT AND INHERITANCE TAXES (Proponent Miller). INITIATIVE STATUTE.** Repeals existing statutes governing gift and inheritance taxes. Prohibits imposition of gift or inheritance taxes. Reenacts state "pickup" tax on decedents' estates at rate set by schedule of credits for state death taxes under specified provisions of the United States Internal Revenue Code. Requires Legislature to provide for collection and administration of this tax. See analysis of Legislative Analyst in Ballot Pamphlet for discussion of effective date of this measure. Summary of Legislative Analyst's estimate of net state and local government fiscal impact: Reduce state inheritance and gift tax revenues by about \$130 million in 1982-83, by about \$365 million in 1983-84, and by higher amounts thereafter. Save state approximately \$6 million annually in administrative costs. Under existing law, reductions in state revenue would result in corresponding reductions in amount of fiscal relief provided by state to local governments and schools.

## Analysis by the Legislative Analyst

### Background:

California has levied a tax on inheritances since 1893 and a tax on gifts since 1939.

The state's *inheritance* tax is a tax on the right to receive or inherit property, and is based on the value of the inheritance received by each heir or beneficiary. This is in contrast to the federal tax on estates left by deceased persons. The federal tax is based on the total value of the decedent's estate, regardless of how many beneficiaries there are.

The state's *gift* tax is a tax on the value of gifts and transfers made by an individual, and is based on the amount received each year by each recipient.

The last major revisions in the State Inheritance and Gift Tax Laws were enacted in 1980 (Chapter 634). Chapter 634 applies to (1) the estates of persons who die, or (2) gifts made, on or after January 1, 1981. It made the following changes in the Inheritance and Gift Tax Laws:

1. It generally exempts from inheritance and gift taxes *all* property transfers between spouses. Un-

der prior law, gifts or inheritances in excess of \$60,000 were subject to taxation, with certain exclusions.

2. It increases the amount of an inheritance or gift which is *exempt* from taxation, for all other classes of beneficiaries, as shown in Table 1.
3. It allows qualified farms and closely held businesses, under certain conditions, to be valued on the basis of their current use, rather than their fair market value as under prior law.
4. It allows an estate to be distributed to the heirs or beneficiaries before the tax due on it has been collected. Under prior law, estates generally could not be distributed until the tax had been paid.

Chapter 634 did not change either the tax brackets or tax rates for the inheritance and gift taxes. The tax *rates*, which are the same for both the inheritance and gift taxes, range from 3 percent to 24 percent, depending on the value of the property and beneficiary class. Class A beneficiaries (a son or daughter) are subject to the lowest tax rates, which range from 3 percent on transfers of up to \$25,000 to 14 percent on transfers valued over \$400,000. Class C beneficiaries (a nonrelative) are subject to the highest tax rates, which range from 10 percent on transfers up to \$25,000 to 24 percent on transfers valued over \$400,000.

### Proposal:

**Inheritance and Gift Tax.** This measure would (1) repeal the current Inheritance and Gift Tax Laws and (2) prohibit the imposition of any gift tax or inheritance tax (except for the "pickup" tax discussed below) on any transfer of property made on or after January 1, 1981. However, according to Legislative Counsel, this measure could not become effective until the day after it is approved by the voters. Thus, if this measure were approved at the June 1982 primary election, it would be effective only in the case of deaths occurring or gifts made on or after its effective date (the day after the election).

**California Estate ("Pickup") Tax.** Under the Federal Estate Tax Law a taxpayer can reduce his or her tax

Table 1

### Amounts Exempt from Inheritance and Gift Taxes

Class of beneficiary	Exemption	
	Current law Chapter 634	Prior law
Class A:		
Minor child .....	\$40,000	\$12,000
Orphan child under age 18....	10,000*	5,000*
Other lineal relation (parent, adult child, grandchild) ..	20,000	5,000
Class B:		
Brother, sister, or their de- scendants .....	10,000	2,000
Spouse of son or daughter.....	10,000	2,000
Class C:		
All others .....	3,000	300

\* Exemption is multiplied by the number of years the child is under age 21. However, to be eligible for the exemption the orphan child must be under age 18.

liability, up to certain limits, by the amount of the taxpayer's state death tax liability.

This measure would require the state to levy a California estate tax (sometimes called "pickup tax") equal to the maximum federal credit allowable. This measure also would require the Legislature to provide for the collection and administration of that tax. The effect of this provision would be to provide the state a portion of the estate taxes which would otherwise go to the federal government. A taxpayer's *total* combined state and federal tax would not be increased under this provision, because the California estate tax would be offset against the federal tax.

#### **Fiscal Impact:**

**State Revenue Loss.** During the 1981-82 fiscal year the state will collect about \$445 million from the inheritance tax, under existing law. Assuming this measure becomes effective in June of 1982, it would *reduce* state inheritance revenues by about \$110 million in fiscal year 1982-83 and by \$340 million in 1983-84. (The full impact of the measure, however, would not occur until fiscal year 1985-86, because there is a time lag between

the date of death and when the resulting inheritance taxes are paid.)

In addition, by eliminating the state gift tax, this measure would reduce state gift tax revenues by about \$20 million in 1982-83, \$25 million in 1983-84, and increasing amounts thereafter. The eventual loss will depend on the effects which recent changes in federal law will have on gift giving and will probably be above \$30 million annually.

In summary, the adoption of the measure would reduce state inheritance and gift tax revenues by about \$130 million in 1982-83, by about \$365 million in 1983-84, and by higher amounts thereafter.

**Savings in State Administrative Costs.** The State Controller estimates that this measure would save the state approximately \$6 million annually in administrative costs, once the full impact is felt.

**Reduction in State Aid to Local Governments.** Under existing law (Chapter 282, Statutes of 1979) the reduction in State General Fund revenues caused by this measure would result in a corresponding reduction in the amount of fiscal relief provided by the state to local governments and schools, beginning in 1982-83.

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### **Text of Proposed Law**

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure expressly repeals parts of the Revenue and Taxation Code and adds a new part thereof; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

#### **PROPOSED LAW**

**SECTION 1.** Part 8 (commencing with Section 13301) of Division 2 of the Revenue and Taxation Code is repealed.

[The text of Part 8 is also repealed by Proposition 6.]

**SEC. 2.** Part 8 (commencing with Section 13301) is added to Division 2 of the Revenue and Taxation Code, to read:

#### **PART 8. FEDERAL CREDIT TAX**

**13301.** *Neither an inheritance tax nor a gift tax shall be imposed on any transfer made and completed on or after January 1, 1981. However, a tax shall be imposed on the estate of decedents dying on and after January*

*1, 1981, at the same rate as the schedule of credits for state death taxes under subdivision (b) of Section 2011 of the Internal Revenue Code of 1954.*

**13302.** *The Legislature shall provide for the collection and administration of the tax imposed by Section 13301.*

**SEC. 3.** Part 9 (commencing with Section 15101) of Division 2 of the Revenue and Taxation Code is repealed.

[The text of Part 9 is also repealed by Proposition 6.]

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A summary of the repealed texts of Part 8 and Part 9 appears on pages 52-54.

A copy of the complete text of the Gift and Inheritance Tax laws repealed by both Proposition 5 and Proposition 6 may be obtained from the Secretary of State's office or local county clerk or registrar of voters' office.

If provisions of two or more measures approved at the same election conflict, those of the measure receiving the most affirmative votes shall take effect.

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## Gift and Inheritance Taxes (Proponent Miller)— Initiative Statute

### Argument in Favor of Proposition 5

Proposition 5 completely eliminates California inheritance taxes, which now range from 3 to 24 percent of a person's estate. It also eliminates gift taxes. Presently, the state law creates a triple taxation of your property. During your lifetime, you pay income taxes, sales taxes, real estate taxes, and more; the inheritance tax is a retaxing of these same assets. This is *in addition* to the federal estate tax. Enough is enough!

As a result of soaring inflation, the inheritance tax is striking hardest at middle-income families who have worked all their lives to pay off their homes and acquire savings. In order to pay the excessive inheritance tax, beneficiaries are often required to sell assets such as homes, farms or family businesses. Is it necessary for the government to tax the family's assets again, just when a beneficiary, such as a child, needs these assets the most?

Proposition 5 repeals the inheritance and gift tax, but retains a small estate tax. This is necessary so that California will not forfeit any money to the federal government. The federal law provides that it will share its federal estate taxes with a state *only if* the state has an estate tax; if a state does not have an estate tax the federal government will keep all of the tax. Under this proposition the estate tax is *not* an additional tax on individuals, it merely requires the federal government to share its revenues with California.

In response to this people's initiative, the California Legislature and Governor attempted a diversionary action to dilute the effect of the measure. The Sacramento politicians passed a bill that will exempt surviving spouses from inheritance taxes and that will raise the exemption rates for other beneficiaries. In spite of that action, inheritance taxes will only be reduced 27 percent. Proposition 5 will eliminate *all* state inheritance tax.

If this proposition does not pass, there will be nothing to prevent the Sacramento politicians from reimposing the inheritance tax on surviving spouses. If this proposition does pass, as provided in the California Constitution, the Legislature will be prohibited from reimposing the tax *without* the consent of the voters.

There is another initiative on this ballot that also eliminates inheritance and gift taxes. Although it qualified after this proposition, it will provide the same tax relief. The Legislative Counsel's office has said that both initiatives are constitutional and that both of them will be effective the day after the election. We urge you to vote for both propositions and eliminate California's excessive inheritance and gift taxes.

Vote *FOR* Proposition 5: Vote to eliminate California's excessive inheritance and gift taxes.

DAVID E. MILLER  
*Attorney*

### Rebuttal to Argument in Favor of Proposition 5

Don't be fooled by the claim that beneficiaries are required to sell homes, farms or businesses to pay California's inheritance tax. Even when there is a tax liability, the law which took effect last year contains special provisions protecting family homes, farms and businesses. Payments may be deferred 10 years—even 15 years in some cases. This law has reduced significantly the number of heirs liable for this tax and the amount they pay.

The federal estate tax has been the burdensome one, and now that, too, has been changed. The tax owed is much less and within five years will affect only the wealthiest families. Together, the new federal and state inheritance tax laws have substantially eased the impact on the average family.

These claims of nonexistent hardships are designed to divert attention from the fact that **REPEAL OF THE INHERITANCE TAX IS TAX RELIEF FOR THE**

**WEALTHY.** Remember, 50 percent of the benefit would go to only 5.7 percent of beneficiaries. Most Californians will never have to pay this tax.

Far from double taxation, the inheritance tax is often the *only* tax on unearned accumulated wealth. It is a reasonable tax which increases as the amount inherited increases. This tax break for those who need it least should be rejected. Its cost would be borne by all citizens either in underfunded public services or in some other, less fair, tax.

KENNI FRIEDMAN  
*President, League of Women Voters of California*

CHRIS ADAMS  
*President, California State PTA*

THOMAS G. MOORE  
*President, California Gray Panthers*

# Gift and Inheritance Taxes (Proponent Miller)— Initiative Statute

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## Argument Against Proposition 5

We, the undersigned, strongly recommend a "no" vote on this measure to repeal California's inheritance and gift taxes.

There is no "good" tax, but some taxes are fairer than others, based on ability to pay. Inheritance and gift taxes are proportional to the amount inherited and as such are among the fairest we have. The benefits of repealing them would be concentrated in a well-to-do minority of taxpayers. Fifty percent of the tax break would go to only 5.7 percent of beneficiaries.

In the past few years, taxpayers in California have received billions and billions of dollars in tax relief, not just from Proposition 13, but from legislation indexing the income tax, changes in the inheritance and gift tax laws and elimination of the business inventory tax. The financial situation of the state is critical. Passage of Proposition 5 would mean an estimated loss of \$400 million in its first full year. This loss combined with the reduction in federal funds to California would intensify the state's fiscal crisis.

*Just last year important changes took effect in California's inheritance and gift tax laws.* These substantially reduced the amount heirs must pay and eased the manner of payment. *Surviving spouses are now excluded from paying the tax,* and the exemption for all other heirs has been increased. Sixty-five percent of heirs pay no tax under the new law. Any tax owed may be paid after an estate's assets are distributed. Special provi-

sions protect family homes, family farms and closely held businesses. All payments may be extended over a longer time period.

The federal estate tax has been eased as well. The estate exemption will gradually increase until within five years only estates over \$600 thousand will be taxed. Surviving spouses are relieved of paying any federal estate taxes. The combined federal and state inheritance taxes are no longer the burden they once were.

The inheritance tax is an old and accepted tax in this country. California's was enacted in 1893. The purpose was to prevent the concentration of wealth in a relatively few families.

Two years ago the voters of California defeated an initiative to cut the income tax in half. They recognized the proposal as tax relief for the few which would be paid for by every resident of the state in reduced services or in other less equitable taxes. This same argument applies to the proposition to repeal the inheritance and gift taxes.

Vote "no." Keep this fair and needed revenue source.

**KENNI FRIEDMAN**

*President, League of Women Voters of California*

**CHRIS ADAMS**

*President, California State PTA*

**THOMAS G. MOORE**

*President, California Gray Panthers*

## Rebuttal to Argument Against Proposition 5

In response to our initiative, the Legislature passed a bill that postpones the time an estate is taxed by an average of eight years (the life expectancy of a surviving spouse). The bill did little to protect the family home, business or farm from being taxed out of existence when it is inherited by the children.

There is confusion regarding our proposition and Proposition 6. The author of Proposition 6 (who is not an attorney) claims that our proposition would allow the Legislature to reinstate the inheritance tax at any time under a different name. This is simply not true, as the California Constitution, Article II, Section 10, specifically declares that an initiative may not be reversed without being resubmitted to a vote of the people. To place this language in our proposition would be simply restating existing constitutional law and is unnecessary.

Furthermore, on September 12, 1980, the California Legislative Counsel's office ruled that our initiative is constitutional and would be effective prospectively the day after the election.

Our initiative petitions were already filed with the appropriate state agency before the author of Proposition 6 even began to distribute his initiative petitions. Perhaps his untrue claims regarding the unconstitutionality of our initiative stem from his need to justify his duplicate and very expensive campaign.

The general public, not special interest groups, contributed their time and money to this campaign. They want to eliminate the graverobber's tax. Vote "yes" on Proposition 5.

**DAVID E. MILLER**

*Attorney*

# Summary of California Inheritance and Gift Tax Laws Repealed by Propositions 5 and 6

## INHERITANCE TAX

### 1. General

The inheritance tax is imposed on the transfer of property from a decedent (a person who died) to the beneficiaries (persons receiving property from the decedent). Each beneficiary is taxed only for that portion of the estate which he or she receives. The exemptions allowed and the tax rates vary according to the relationship of the beneficiary to the decedent. Those beneficiaries most closely related to the decedent receive a more favorable tax treatment than those unrelated to the decedent. Under the California Inheritance Tax Law, there is generally no tax on transfers to the surviving spouse of the decedent.

### 2. Property Subject to the Tax

Real property (e.g., land and buildings) and tangible personal property (e.g., vehicles and jewelry) permanently located in California are subject to the tax regardless of the residence of the decedent. In the case of a decedent who was a resident of California at the date of death, all of his or her intangible personal property (e.g., bank and savings accounts, stock, etc.) is subject to the tax. If, at the date of death, the decedent resided in the United States but outside of California, his or her intangible personal property is not subject to the tax. If the decedent resided outside of the United States at the date of death, his or her intangible personal property in California is subject to the tax.

### 3. Transfers Subject to the Tax

The tax is imposed upon the transfer of property from the decedent to the beneficiaries. This transfer may be made according to (a) a will left by the decedent, (b) the laws which identify the order of inheritance in cases where there is no will, (c) joint tenancy with right of survivorship to the extent that the property was acquired with the decedent's assets, or (d) certain transfers made during the lifetime of the decedent. This last category includes transfers in which the decedent has reserved the right to income for life and transfers in which the decedent has reserved for life the power to revoke the transfer or control of the property.

### 4. Valuation

For purposes of determining the amount or tax due, the property which is subject to the tax is generally valued at its fair market value on the date of death unless it is used for farming purposes or in a family business. In these cases an alternative method of valuation is authorized which normally will result in a lower valuation based on the special use of the property.

### 5. Deductions

The tax is calculated on the net value of the property transferred after deducting from the appraised value of the property certain expenses paid by the estate of the decedent. The allowable deductions include:

1. The funeral expenses and expenses of last illness paid after death;
2. Legally enforceable debts of the decedent;
3. State and local taxes which at the date of death are a lien upon the property transferred;
4. Expenses of administering the estate of the decedent, including attorney's fees, executor's commissions (an executor is the person named in the will to administer the estate of the decedent) and inheritance tax referee fees (the function of these referees is discussed in Section 11);
5. Certain casualty losses to property which occur after the decedent's death and before either the date the tax is determined or a year after death, whichever is earlier.

### 6. Exclusions

Certain transfers are expressly excluded from the imposition of the tax. The most frequently used of these exclusions are the charitable exclusion, the insurance exclusion, and the public pension or retirement plan exclusion. In addition, most transfers between spouses, where the decedent spouse died on or after January 1, 1981, are not subject to the tax.

### 7. Specific Exemption

In addition to the exclusion from tax of property transferred to the decedent's spouse, the law provides a specific exemption for all other beneficiaries. The specific exemption varies according to the relationship of the beneficiary to the decedent, as follows:

Table 1  
Specific Inheritance Tax Exemptions

	<i>Class of beneficiary</i>	<i>Specific exemption</i>
	Minor child (includes adopted)	\$40,000
A	Adult child (18 and over), grandchild, parent, grandparent (by blood or adoption)	20,000
	Mutually acknowledged child	
	Descendant of mutually acknowledged child	
	Orphan under age 18	10,000 *
B	Brother, sister (excludes brothers- or sisters-in-law)	10,000
	Nephew or niece (by blood or adoption)	
	Wife or widow of son, husband, or widower of daughter	
C	Strangers in blood Relationships not specified above (e.g., in-laws, aunts, uncles, cousins)	3,000

\* The exemption is multiplied by the number of years the orphan is under the age of 21.

## 8. Tax Rates

The tax rates are progressive. As the value of the property received by each beneficiary increases, the rate of tax as to that beneficiary also increases. The tax rates are shown below.

Table 2  
California Inheritance Tax Rates

Taxable amount of inheritance <sup>a</sup>	Class of beneficiary and rates		
	A	B	C
<i>On the amount from:</i>			
\$0 to \$25,000 .....	3%	6%	10%
25,001 to 50,000 .....	4	10	14
50,001 to 100,000 .....	6	12	16
100,001 to 200,000 .....	8	14	18
200,001 to 300,000 .....	10	16	20
300,001 to 400,000 .....	12	18	22
<i>On the amount over:</i>			
\$400,000 .....	14	20	24

<sup>a</sup>The rate brackets are applied to the total taxable amount of the inheritance *before* deducting the amount of the specific exemption. That is, the exemption is taken out at the lowest rate bracket or brackets.

## 9. Credits

A credit against the inheritance tax is allowed in the following two situations:

a. *Gift Tax Credit.* A credit is allowed for the gift tax paid when the transfer subject to inheritance tax was made during the lifetime of the decedent (for example, a transfer in which the decedent retained the right to receive the income from the property for his or her life) and a gift tax was paid at the date of the transfer.

b. *Previously Taxed Property Credit.* In cases where the decedent received property from a prior decedent and the date of death of the present decedent is within five years of the date of death of the prior decedent, full credit is allowed for the California inheritance tax which the present decedent paid upon the receipt of property from the prior decedent. To qualify for the previously taxed property credit, the present decedent must have been a Class A beneficiary of the prior decedent and the property of the present decedent must pass to Class A beneficiaries.

## 10. "Pickup" Tax

Under the Federal Estate Tax Law, a credit is allowed for inheritance or estate taxes paid to a state. The amount of the credit is determined under the provisions of the Federal Estate Tax Law. If the amount of the state inheritance tax due is less than the credit allowed under the federal law, the California law imposes an estate tax ("pickup" tax) in an amount equal to the difference between the federal credit and the state inheritance tax imposed.

The amount of estate tax payable to the federal government is reduced by an amount equal to the credit allowed for the state inheritance and "pickup" taxes. Therefore, the combined state and federal death tax burden is not increased.

## 11. Determination of Inheritance Tax Due

If the decedent's estate is subject to probate administration, the inheritance tax is determined by the probate court in the course of administering the estate. The court appoints an inheritance tax referee who appraises the noncash assets of the estate and files with the court a report showing the total value of the estate, the net taxable value passing to each beneficiary, the amount of inheritance tax due from each beneficiary, and the total inheritance tax due. If the executor or any beneficiary disagrees with the inheritance tax referee's valuation of the estate or method of computing the inheritance tax due, objections to the report may be filed with the court.

If the estate of the decedent is not subject to probate administration, the tax may be determined administratively by the State Controller's office. An inheritance tax referee is assigned to appraise the noncash assets and prepare the tax determination. If any person liable for tax disagrees with the determination, he or she may petition the court for a determination of tax. The tax is then determined by the court in the same manner as in a probate estate.

## 12. Payment of the Tax

Unless the will of the decedent provides otherwise, each beneficiary is liable for that portion of the tax due from him or her.

## 13. Time of Payment and Interest for Late Payment

The tax becomes delinquent nine months from the date of death. Any delinquent tax accrues interest from the delinquency date until the tax, plus interest, is paid in full. The normal rate of interest for a delinquent payment of inheritance tax is 12 percent per annum.

In several instances, however, the law provides for a deferred payment of inheritance tax and an adjusted rate of interest. The adjusted rate of interest is indexed to the prime rate charged by banks and is readjusted every two years, up to a maximum of 12 percent per annum. In general, deferred payment may be allowed if (a) a substantial portion of the decedent's estate includes a closely held business or principal place of residence, (b) payment within the normally allotted time period would result in undue hardship, or (c) there is a showing of reasonable cause to defer payment. In such cases, the payment of taxes may be deferred for a specified period of time, which, depending on the basis for deferment, varies from 5 to 15 years.

## 14. Interest on Refunds

If there is an overpayment of inheritance tax due, interest is allowed on the refund of the excess payment at a specified rate, not to exceed 7 percent per annum.

## GIFT TAX

### 1. General

The gift tax is imposed on gifts made during one's lifetime. Basically, the provisions of the Gift Tax Law parallel the provisions of the Inheritance Tax Law. The tax is measured by the value of the gifts made to each

donee (person receiving the gift). That is, a separate gift tax computation is made for the gifts to each donee, rather than making one computation based on the total value of the gifts from a single donor (the person giving the gift) to all donees. The specific exemptions and rates of tax are the same as under the Inheritance Tax Law.

## 2. Valuation

For purposes of the Gift Tax Law, the property which is the subject of the gift is valued at its market value on the date of gift. Unlike the Inheritance Tax Law (see Section 4), the Gift Tax Law does not contain a provision for the special use value of real property.

## 3. Exclusions

Gifts made to the spouse of the donor during the donor's lifetime are excluded from the gift tax. The Gift Tax Law also excludes gifts made to government agencies and charitable organizations and gifts of intangible personal property belonging to a donor who resided in a territory or state of the United States, other than California, at the date of gift. The Gift Tax Law does not provide an exclusion for a gift of insurance, nor does it provide an exclusion for gifts of an interest in a public pension or retirement plan.

The Gift Tax Law does provide a \$3,000 annual exclusion for gifts to each donee. That is, in each year a donor may make gifts of up to \$3,000 to each donee without incurring any gift tax.

## 4. Gift Tax Returns and Determination of the Tax

Under the Gift Tax Law, the donor is required to file

quarterly with the state a gift tax return reporting the gift or gifts made.

## 5. Payment of Tax

Both the donor and the donee of a gift are liable for the gift tax, but the donor has primary responsibility for the tax.

The tax becomes delinquent on the last day allowed for filing a return. Any delinquent gift tax accrues interest at the rate of 12 percent per annum until the tax, plus interest, is paid in full.

The Gift Tax Law does not contain provisions for installment payments, nor does it allow for an adjusted rate of interest for late payment of the tax.

## 6. Penalties

If a gift tax return is not filed when due, it is subject to a penalty equal to 5 percent of the tax owed. Additional penalties are imposed in cases involving such matters as fraud or willful failure to file a return.

## 7. Interest on Refunds

In the case of overpayment of the gift tax due, interest is allowed on the refund of the excess payment. If the overpayment is due to an error or mistake on the part of the taxpayer, the interest on the refund is computed at a specified rate, not to exceed 7 percent per annum. If the overpayment does not reflect an error or mistake on the part of the taxpayer, interest on the refund is computed at the rate of 12 percent per annum. Interest is allowed from the date on which the payment of the tax would have become delinquent, if not paid, or the date of actual payment, whichever is later.

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### Proposition 8—Analysis—Continued from page 32

ting a crime to be released without bail upon their written promise to appear in court when required. The failure to appear in court as promised can result in additional criminal charges being filed against the accused.

Court decisions have held that the purpose of bail is to assure that the defendant will appear in court to stand trial, rather than to protect the public's safety.

This measure would amend the State Constitution to give the courts discretion in deciding whether to grant bail. It would, however, continue the prohibition on bail in felony cases punishable by death when the proof of guilt is evident or the presumption of guilt is great.

In addition, the measure would add to the State Constitution a provision requiring the courts—in fixing, reducing, or denying bail or permitting release without bail—to consider the same factors that they now are required by statute to consider in fixing the amount of bail. It would also make protection of the public's safety the primary consideration in bail determinations. Moreover, the measure would prohibit the courts from releasing without bail persons charged with certain felonies.

Finally, the measure would require the court to state for the record its reasons for deciding to (a) grant or

deny bail or (b) release an accused person without bail.

**Prior Convictions.** The measure would amend the State Constitution to require that information about prior felony convictions be used without limitation to discredit the testimony of a witness, including that of a defendant. Under current law, such information may be used only under limited circumstances.

**Longer Prison Terms.** Under existing law, a prison sentence can be increased from what it otherwise would be by from one to ten years, depending on the crime, if the convicted person has served prior *prison terms*, and a life sentence can be given to certain repeat offenders. Convictions resulting in probation or commitment to the Youth Authority generally are not considered for the purpose of increasing sentences, and there are certain limitations on the overall length of sentences.

This measure includes two provisions that would increase prison sentences for persons convicted of specified felonies. First, upon a second or subsequent conviction for one of these felonies, the defendant could receive, on top of his or her sentence, an *additional* five-year prison term for each such prior conviction, regardless of the sentence imposed for the prior conviction. This provision would not apply in cases where other provisions of law would result in even longer pris-